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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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RICHARD DUTCHER and GWEN DUTCHER, RICHARD FERGUSON and MICHELLE FERGUSON; and CATHERINE RICHARDS AHLERS, on their own behalf and on behalf of a class of similarly situated persons,

Plaintiffs,

v.

STUART T. MATHESON; MATHESON, MORTENSEN, OLSEN & JEPSSON, P.C.; RECONTRUST COMPANY, N.A.; BAC HOME LOANS SERVICING LP; AND BANK OF AMERICA, N.A.,

Defendants.

Civil Action No. 2:11-CV-00666-TS

**DEFENDANTS' MOTION TO STRIKE  
STATE OF UTAH'S OCTOBER 4, 2013  
BRIEF**

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Defendants Stuart T. Matheson; Matheson, Mortensen, Olsen & Jeppson, P.C.; ReconTrust Company, N.A. ("ReconTrust"); BAC Home Loans Servicing LP ("BAC-HLS"); and Bank of

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<sup>1</sup> Bank of America, N.A. is successor by merger to BAC Home Loans Servicing, LP (f/k/a Countrywide Home Loans Servicing LP), effective July 1, 2011.

America, N.A. (“BANA”), (collectively “Defendants”), submit this Motion to Strike State of Utah’s October 4, 2013 Brief. In support of this Motion, Defendants state as follows:

1. On September 17, 2013, this Court ordered “the parties” to submit simultaneous supplemental briefs on October 4, 2013 at 5:00pm Mountain Time addressing the Court’s jurisdiction under the federal Class Action Fairness Act (“CAFA”) and whether jurisdictional discovery was appropriate. *See* Docket Entry (ECF No. 83); *see also* State of Utah’s Br. (ECF No. 85 at 2) (stating that the Court directed “the parties” to submit simultaneous briefs).

2. The only parties in this lawsuit are Richard and Gwen Dutcher, Richard and Michelle Ferguson, Catherine Richard Ahlers, and Defendants.

3. The State of Utah is not a party to this lawsuit. In fact, the Court denied the State of Utah’s Motion to Intervene in this case on July 23, 2012. *See* Order (ECF No. 70).

4. Even though the State of Utah is not a party in this case and was therefore not invited by the Court to submit a supplemental brief, it filed a “Memorandum Re: CAFA Jurisdiction” on October 4, 2013. *See* Brief (ECF No. 85).

5. The State of Utah was not authorized by the Court to file this brief and did not seek permission from the Court to file this brief. In addition, neither the Court’s Local Rules nor the Federal Rules of Civil Procedure authorize the State of Utah, as a non-party, to file a supplemental brief.

6. To the extent the State of Utah requests that the Court revisit its order denying the State of Utah’s Motion to Intervene, *see* Brief (ECF No. 85 at 5), the Court expressly stated at the September 17, 2013, hearing that all other proceedings, besides those concerning jurisdiction, were stayed. Therefore, such a request is not appropriate at this time.

7. Accordingly, Defendants request that the State of Utah's October 4, 2013 Brief be stricken from the record.

WHEREFORE, for the foregoing reasons, this Court should grant Defendants' Motion to Strike the State of Utah's October 4, 2013 Brief.

DATED: October 11, 2013

Respectfully submitted,

/s/ Philip D. Dracht  
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*Attorney for Defendants*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 11, 2013, the foregoing was filed with the Clerk of the Court via ECF and electronically served on all parties represented by counsel.

*s/Philip D. Dracht*  
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